IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No: 11657 of 2004

Between:

Dr. Y. Muddukrishna, S/o Y. Anjaneyulu
Medical and Health Officer, Parvathipuram, Vizianagaram District

..... PETITIONER

AND

1 The Government of Andhra Praadesh rep by Secretary, Health, Medical and Family Welfare Department, Secretariat, Hyderabad
2 The Director of Health, Andhra Pradesh, Koti, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or direction more in the nature of Writ of Mandamus declaring the orders dated 16-04-2004 passed in O.A. NO. 8104/2002 on the file of the A.P. Administrative Tribunal as illegal and arbitrary and consequentially direct the respondents to consider case of the petitioner for promotion to the post of Civil Surgeon with effect from 12-12-2001 the date on which the juniors were promoted to such category with all benefits like payment of salary, arrears of salary etc.

Counsel for the Petitioner: MR.P.HARINATH GUPTA

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed challenging the order, dated 16.04.2004 passed by A.P. Administrative Tribunal in O.A.No.8104 of 2002.

2. The petitioner filed O.A. before the Tribunal seeking direction to the respondents to consider his case of promotion for the post of Civil Surgeon and sought promotion as was given to his juniors on 12.12.2001. The said O.A. was dismissed on the ground that the matter was already considered by the authorities and therefore, no further orders are necessary. Accordingly, the O.A. was dismissed, against which the present Writ petition has been filed.

3. Learned counsel for the petitioner submits that when the case against the petitioner is pending in the Criminal Court, the authorities are required to follow the procedure as contemplated in G.O.Ms.No.74, GAD, dated 24.2.1994. In the instant case such a procedure has not been followed and hence the order is liable to be set aside.

4. On the other hand, learned Government Pleader submits that the matter has been considered in pursuance of the directions issued by the Tribunal and the G.O.Ms.No.334, dated 28.9.2004 issued by the Government in which the name of the petitioner figures at Sl.No.4. He further submits that his name is included and it was deferred and also submits that the Writ Petition is not maintainable.

5. We have heard the learned counsel for the parties. Inasmuch as the Government has passed orders in G.O.Ms.No.334, we do not find any illegality in the order of the Tribunal and we leave it open to the petitioner to challenge the consequential G.O.Ms.No.334, dated 28.9.2004, if he so aggrieved.

6. With this observation, the Writ Petition is accordingly closed. No costs.

_____

G. BIKSHAPATHY, J.

B. SESHASAYANA REDDY, J.

Date: 31.12.2004

ES

To

1 The Secretary, Government of Andhra Pradesh, Health, Medical and Family Welfare Department, Secretariat, Hyderabad
2 The Director of Health, Andhra Pradesh, Koti, Hyderabad

3 2 CCs to the G.P. for Services I, High Court of A.P., Hyderabad (OUT).

4 2 CD copies.